

IN THE HIGH COURT OF KERALA AT ERNAKULAM

WA.No. 2815 of 2009()

1. P.N. MOHANADASAN,

... Petitioner

Vs

1. THE STATE INFORMATION COMMISSION,

... Respondent

2. STATE PUBLIC INFORMATION OFFICER AND

3. RASHEED ANAPPARA,

For Petitioner :SRI.T.SETHUMADHAVAN

For Respondent : No Appearance

The Hon'ble the Chief Justice MR.S.R.BANNURMATH

The Hon'ble MR. Justice A.K.BASHEER

Dated :10/12/2009

O R D E R

S.R.Bannurmath, C.J. & A.K. Basheer, J.

W.A. No.2815 of 2009

Dated this the 10th day of December, 2009

JUDGMENT

S.R.Bannurmath, C.J.

Aggrieved by the judgment of the learned Single Judge dated 18th November, 2009 dismissing the writ petition filed by the appellant herein, the present writ appeal is filed.

2. The appellant who is now working as Administrative Assistant in the office of the District Medical Officer of Health, Wayanad was the designated State Public Information Officer in the office of the District Medical Officer of

Health, Pathanamthitta. After such appointment, the third respondent herein submitted an application on 17.8.2008 under the Right to Information Act, 2005, hereinafter referred to as 'the Act', and requested for certain information. On receipt of the application, the appellant intimated the applicant/third respondent by letter dated 4.9.2008 to furnish certain details regarding his organization, the registration number and other details and also to prove that he is an Indian citizen. Sensing the delaying tactics and bona fides of the appellant in not giving the information and delaying it, the third respondent filed a complaint before the State Commission under Section 18(1) of the Act and after detailed consideration, the State Commission found that there was refusal of access to the information and not given a response to the request for information, and therefore, allowed the complaint and imposed a penalty as per Ext.P4 order for a sum of Rs.18250/- calculated at the rate of Rs.250/- per day for a period of 73 days.

3. Aggrieved by the same, the writ petition was filed. The learned Single Judge declined to interfere with the well considered order (Ext.P4) and dismissed the writ petition. Hence the present writ appeal.

4. The main contention of the learned counsel for the appellant is that without invoking the appellate jurisdiction under

Section 19 of the Act, the State Commission should not have entertained the complaint and imposed the penalty.

5. On a perusal of Section 20 of the Act wherein penalty is proposed to be imposed on a complaint or in an appeal indicate that irrespective of invoking the appeal provision, a party can approach and invoke jurisdiction of the State Commission on a complaint bringing it to the notice that there was illegal denial of information or withholding of information, as the case may be. As such, as it is open to the State Commission to impose penalty either on a complaint in this regard lodged invoking the jurisdiction of the authority under Section 18 of the Act or in an appeal filed before it under Section 19 of the Act, the present invoking of jurisdiction directly under Section 18 cannot be said to be either illegal or erroneous. In a given case, the aggrieved party may file appeal against the order of refusal, but it is always open for him to bring it to the notice of the State Commission the the delaying tactics which is contrary to the objectives of the Act.

6. In the present case, the grounds raised by the appellant for not furnishing the information, like seeking information or confirmation about the authenticity of the person applying, verifying whether he is an Indian citizen or not,

whether his application should be on the printed letterhead of the company, etc. cannot be said to be relevant reasons for refusal or denial of the information sought. This denial is permitted only if the case and information sought falls under the exemptions as provided under Sections 8 and 9 of the Act. Beyond these exemptions, the State Public Information Officer cannot either delay in giving the information or deny such furnishing of information. It is to be noted that even though the information was sought as long back as in August, 2008, necessary information was furnished only in March, 2009, that too by the successor of the appellant herein. This indicates that, prima facie, there was no obstruction for furnishing such information and hence we find that the State Commission as well as the learned Single Judge were justified in imposing the penalty which needs, in our view, no interference.

7. Hence, we find no merit in the writ appeal.

However, at this stage, it is submitted by the learned counsel for the appellant that as the penalty is heavy some breathing time may be granted to the appellant to remit the amount. In the peculiar facts and circumstances of the case, we grant two instalments to the appellant to pay the penalty, first of which shall be paid by 31st December, 2009 and the second within 15 days thereafter.

With this modification in the impugned judgment, we
dismiss the writ appeal.

S.R.Bannurmath,
Chief Justice

A.K. Basheer,
Judge

vns